

## HALF YEARLY REPORT ON PLANNING OBLIGATIONS

### Purpose of the Report

To provide Members with a report on planning obligations which have been secured over the 6 month period referred to in this report, obligations which have been modified either by application or agreement, works that have been funded in part or in whole by planning obligations within this period, and compliance with their requirements

### Recommendation

- a) That the report be noted

### Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on the 7<sup>th</sup> January 2020 and covered the period between the 1<sup>st</sup> April to the 30<sup>th</sup> September 2019. This report now covers the period between 1<sup>st</sup> October 2019 to 31<sup>st</sup> March 2020 and sets out planning obligations which have been secured during this 6 month period, obligations which have been amended either by application or by agreement, works that are known to have been funded during that period in whole or in part by planning obligations, contributions that have been received as a result of planning obligations, and compliance with their requirements. Members should however note that the information on payments received and funded expenditure may be incomplete.

Planning obligations can be secured by agreement or by unilateral undertaking. These are sometimes known as Section 106 agreements or undertakings – being entered into pursuant to Section 106 of Town and Country Planning Act 1990, as amended.

As with previous half yearly reports the relevant Section 106 information is reported in various Tables. However, the format of this report and the method of reporting it may change over the next few months following a change to the Community Infrastructure Regulations and recent planning guidance published in September 2019 which requires local planning authorities, that have received developer contributions, to publish an infrastructure funding statement (IFS) summarising their developer contributions data. The first IFS must be published by the 31<sup>st</sup> December 2020 and must be reported at least once a year. The first IFS must cover a period that starts on the 1<sup>st</sup> April 2019.

Your officers are now working with other departments of the Council to prepare and develop the data format and IFS.

This half yearly report may be the last in this format.

**Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st October 2019 to 31<sup>st</sup> March 2020)**

This Table identifies developments where planning obligations by agreement or by undertaking have been entered into by developers/owners. It does not include the obligations entered into by the public authorities, except where they are the landowner/developer. The cases involve both financial contributions, the provision of development such as affordable housing and obligations which restricts the use of a development e.g. non-severance of ancillary accommodation. Contributions are usually payable upon commencement of the development (the payment “trigger”), but that can vary. If a development is not undertaken it follows that there is no requirement to pay the contribution and payment should not therefore be assumed.

Application reference and date of agreement or undertaking	Location of development	Development	Purpose of the obligation(s) entered into by developers/owners	The level of contribution(s) payable when development trigger achieved
19/00036/FUL 3 <sup>rd</sup> September 2019  <i>**not included in last report**</i>	Land Off New Road, Madeley	Proposed residential development of 32 residential dwellings with site access, car parking, landscaping and all associated engineering works.	25% on-site Affordable Housing	Not Applicable
			Off-site Public Open Space Provision	£178,528 (Index Linked)
			Secondary Education Provision	£66,488 (Index Linked)
18/00714/FUL  19 <sup>th</sup> December 2019	The Brighton, Sneyd Terrace, Silverdale	Change of use and refurbishment of former care home (C2) into apartments (C3) for over 55s independent living. The detailed proposals are for 16 new one beds and 3 two bed apartments.	Off-site Public Open Space Provision	£93,727 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
19/00614/FUL 30 <sup>th</sup> January 2020	Ashfields Grange Sheltered Housing Scheme, Hall Street, Newcastle-Under-Lyme	Demolition of all existing buildings and the development of 89 supported living apartments (C3 use class), along with communal facilities,	Off-site Public Open Space Provision	£85,799 (Index Linked)
			Travel Plan Monitoring	£2,407 (Index Linked)

		car parking, landscaping and amenity space.		
			Financial Viability Re-Appraisal Mechanism	Not Applicable
18/00916/FUL 7 <sup>th</sup> February 2020	Kidsgrove Working Mens Club & Institute, Hardingswood Road, Kidsgrove	Full planning permission for the demolition of existing buildings and construction of retail store (2,206sqm GEA) (Use Class A1) and associated means of access, parking, landscaping and associated infrastructure works.	Travel Plan Monitoring	£2,407 (Index Linked)
			Signal Controlled Pedestrian Crossing Provision	£10,000 (Index Linked)
18/00921/OUT  <i>26<sup>th</sup> February 2020 as part of the planning appeal which was subsequently dismissed and as such the obligation has not taken effect</i>	Land Adjacent To Park House, Dales Green Road, Mow Cop	Erection of 6 dwellings	100% on-site Affordable Housing	Not Applicable

**Table 2 – Developments where planning obligations by developers/owners of land have been agreed to be modified or discharged by application or by agreement (1st October 2019 to 31<sup>st</sup> March 2020)**

This Table identifies developments where planning obligations by agreement or undertaking have been modified or discharged. The list includes decisions made under Section 106A (to vary or discharge the terms of an obligation), and where the Council has, without a formal application having been made, agreed to amend or modify an existing agreement.

<b>Application Number (if applicable) &amp; Reference Number of original related permission and date of modified /discharged agreement</b>	<b>Location of Development</b>	<b>Application</b>	<b>Decision</b>
08/00555/FUL 25 <sup>th</sup> October 2019	Madeley Village Hall And Lea House, Furnace Lane, Madeley	Sixty-three two bedroom flats Extra Care Scheme linked to new Madeley Community building, replacing existing residential care home (Lea House) and existing village hall and Scout hut.	Deed of Variation to amend the clauses related to liability to future mortgagees.
13/00970/OUT 17 <sup>th</sup> December 2019	Land North Of Pepper Street, Keele	Residential development (maximum of 100 dwellings)	Deed of Variation to revise the level of affordable housing to 6% and a Financial Viability Re-Appraisal Mechanism
16/01106/FUL 18 <sup>th</sup> December 2019	Former Bristol Street Ford Garage, London Road, Newcastle Under Lyme	Redevelopment of the site for 499 apartments (comprising of student accommodation)	Deed of Variation that secures revised financial contributions totalling £300,000 and a Financial Viability Re-Appraisal Mechanism.

**Table 3 - Development where financial contributions have been made (1st October 2019 to 31<sup>st</sup> March 2020)**

This Table identifies the developments where a planning obligation requires the payment of a financial contribution and the trigger for payment has been reached and payments have been made. The sum of the contribution may differ from that originally secured due to it being a phased payment of the contribution, or the application of indexation. Whilst some information has been received from the County Council the Table may be incomplete due to difficulties experienced in obtaining this information.

<b>Permission reference</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s) subject of contributions received</b>	<b>Contribution made and to whom</b>
18/00693/FUL	Orchard House, Clayton Road, Newcastle Under Lyme	Specialist accommodation for the elderly comprising of 75 Residential apartments with care, communal facilities, parking and associated private amenity space for persons aged 55 and over.	Travel Plan Monitoring Fee	£2,360  SCC
14/00284/FUL	Priory Day Centre, Lymewood Grove, Newcastle Under Lyme	Demolition of the redundant day care centre and the construction of 13 new single storey dwellings	Public Open Space Improvements	£21,842.10  NBC
16/00902/DEEM 4	Land Off Deans Lane And Moss Grove, Red Street, Newcastle Under Lyme	Outline Planning Consent for the development of up to 50 dwellings	Public Open Space Improvements	£148,193.15  NBC
			Secondary Education Places	£99,732.00  SCC

**Table 4 - Development where financial contribution have been spent. (1st October 2019 to 31<sup>st</sup> March 2020)**

This Table identifies those developments where the spending authority has advised the Planning Authority that they have spent within the above period a financial contribution secured via planning obligations. The Table is intended to cover expenditure both by the County Council and by the Borough Council and accordingly may be incomplete particularly with respect to the former. In the next 6 monthly report an update will, hopefully, be provided. The Table only refers to the spending of financial contributions, it does not refer to on-site affordable housing that has been provided as a consequence of planning obligations.

Permission associated with the planning obligation as a result of which funding was received	Location of development referred to in the permission	Development	Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation	How the contribution has been spent
12/00512/FUL	Thistleberry House Residential Home, Keele Road, Newcastle Under Lyme	Demolition of existing Thistleberry House building, erection of 37 dwellings and creation of new access off Keele Road	Public Open Space contribution of £109,034.58	£6899.12 - Thistleberry Parkway Footpath Improvements

**Table 5 - Developments where apparent breaches of planning obligations has been identified**

This Table identifies developments where either the triggers for the payment of financial contribution have been reached and no payment has yet been received, or there is some other current breach in terms of the obligation/undertaking. It also includes cases brought forward from previous periods, which have not yet been resolved, and cases reported in the last half yearly report which have now been resolved and can be considered "closed".

Permission reference & Date of Obligation & enforcement case reference	Location of development	Development	Purpose of the obligation and description of the apparent breach	Action taken and to be taken to resolve the apparent breach.
12/00701/FUL 13 <sup>th</sup> May 2013  16/00219/207C2	Former Randles Ltd, 35 Higherland, Newcastle	Change of use of ground floor to A1 retail (convenience goods), installation of a replacement shopfront, associated external alterations and works including the recladding of the building and formation of a car park and amended site access	A financial contribution of £36,017 (index linked) towards the Newcastle (urban) Transport and Development Strategy (NTADS) is required to have been paid prior to the commencement of the development.  That has not happened	The ground floor of the building has been operating as a Tesco food store for a considerable amount of time. The County Council and the Borough Council have requested the outstanding amount which will need to have index linking applied, and in the event of payment still not being made further action may need to be taken.  Efforts have been made to contact the owner but no response has been received. The matter has been passed to the County Council's legal/ monitoring section to progress.  An update from the County Council on any progress is still awaited.
03/00880/OUT 26 <sup>th</sup> July 2005	Site of Former Packmoor Sports and Social Club, Turnhurst Road,	Residential development	Non-compliance with Clause 4.5 of S106 agreement which required a strip of land 1.5m wide either side of the centre line of	The development has been built out and inquiries have been made recently about this breach with the landowner's agent.

19/00118/207C2	Newchapel		certain Footpaths to be dedicated as highways immediately after the grant of planning permission.	An update will be provided when there is further information available.
17/00252/FUL 21 <sup>st</sup> July 2017 19/00123/207C3	Former Jubilee Baths Nelson Place, Newcastle (now the Sky Building)	Demolition of former swimming baths and construction of 273 room student development with associated communal area and car parking, alternative to Planning Approval 15/00166/FUL	Non-payment of part of the Residential Parking Zone Contribution (£48,000 index linked), and the Travel Plan Monitoring Fee (£2,200 index linked) required by Section 106 Agreement	The payment of the complete residential parking zone contribution was by either occupation of the building or by 30th September 2017 (whichever is the earliest), and the Travel Plan Monitoring Fee by 7th August 2017. Clarification has been sought from the County Council.  An update will be provided when there is further information available.
11/00284/FUL 6 <sup>th</sup> February 2013 19/00129/207C3	Former Site Of Silverdale Station And Goods Shed Station Road, Silverdale	Erection of twenty three houses	Non-compliance with obligation requiring payment of financial contributions - £66, 689 (index linked to public open space, £55, 155 (index linked) towards primary school places and £26,244 (index linked) towards the Newcastle-under-Lyme Urban Transport Development Strategy (NTADS)	When planning permission was granted it was the subject of a S106 agreement which secured certain payments as detailed and a financial viability review mechanism should development not be substantially commenced by a certain date, which might lead to a contribution to affordable housing off site.  Evidence of substantial commencement was not received by the Local Planning Authority and on this basis it is concluded that the trigger is not achieved.  Your officers have instructed the District Valuer to conduct a financial viability appraisal to determine whether the development can support policy complain planning obligations or any level of contributions.



				<p>The final report of the DVS has been provided and is being considered.</p> <p>In October 2018, prior to the referral of the case to the District Valuer the developer requested that they be permitted to make payments in monthly instalments to settle the debt. This request is yet to be reported to the Committee because until the reappraisal has been assessed and agreed the total sum owing is unknown. No payments appear to have been made to date</p>
18/00693/FUL	Orchard House, Clayton Road, Newcastle Under Lyme	Specialist accommodation for the elderly comprising of 75 Residential apartments with care, communal facilities, parking and associated private amenity space for persons aged 55 and over.	Non-compliance with obligation requiring payment of financial contributions - first instalment of £103,341 (index linked to public open space.	<p>The first instalment of the public open space contribution was due within three months of the commencement date of the approved development.</p> <p>It is believed that the commencement date was in early 2019 and so the payment is at least 12 months overdue.</p> <p>The applicant has been approached about the non-payment and advises that they are not in a position to make payment at this moment in time but they hope to resolve the matter as soon as possible.</p> <p>In the current economic climate your officers do not consider that it is appropriate to take formal enforcement action. The overdue payment is subject to interest from the date when the trigger for payment was achieved and this will be applied when the developer</p>

				is in a position to make the payment.
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